

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 16411
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On March 8, 2002, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayers) for a grocery credit refund in the amount of \$45 for the period ending December 31, 2000. Rather, a \$15 credit was allowed. The taxpayers filed a timely protest and petition for redetermination of the denial of a portion of their grocery credit refund request. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The taxpayers submitted their Idaho Form 24, Idaho Grocery Credit Refund, requesting a refund in the amount of \$45. The form showed they were both born in 1956 and that [Redacted] is a 100% disabled veteran. A letter from a Veteran Service Center Officer that was attached to the request confirmed the disability status.

Idaho Code § 63-3024A defines the circumstances for receiving an Idaho grocery credit as follows:

**63-3024A. Credits and refunds.** (a) Any resident individual not entitled to the credit allowed in subsection (b)(1), **who is required to file by law and who has filed an Idaho income tax return, shall be allowed a credit against taxes due under the Idaho income tax act equal to the amount of fifteen dollars (\$15.00) for each personal exemption for which a deduction is permitted by section 151(b)** and (c) of the Internal Revenue Code if such deduction is claimed on the taxpayer's Idaho income tax return, and if the individual for whom the deduction is claimed is a resident of the state of Idaho. If taxes due are less than the total credit allowed, the taxpayer shall be paid a refund equal to the balance of the unused credit. If the credit or refund is not claimed for the year

for which the individual income tax return is filed, the right thereafter to claim such credit or refund shall be forfeited. The state tax commission shall prescribe the method by which the refund, if any, is to be made to the taxpayer.

(b) (1) A resident individual who has **reached his sixty-fifth birthday before the end of his taxable year, who is required to file by law and who has filed an Idaho income tax return**, shall be allowed a credit against taxes due under the Idaho income tax act equal to the amount of thirty dollars (\$30.00) for each personal exemption representing himself, a spouse over the age of sixty-five (65), or a dependent over the age of sixty-five (65), but shall be allowed a credit against taxes due under the Idaho income tax act equal to fifteen dollars (\$15.00) for each personal exemption representing a spouse or dependent under the age of sixty-five (65). If taxes due are less than the total credit allowed, the taxpayer shall be paid a refund equal to the balance of the unused credit. If the credit or refund is not claimed for the year for which the individual income tax return is filed, the right thereafter to claim such credit or refund shall be forfeited. The state tax commission shall prescribe the method by which the refund, if any, is to be made to the taxpayer.

(2) **A resident individual who has reached his sixty-fifth birthday and is not required by law to file an Idaho income tax return** and who has received no credit or refund under any other subsection of this section, shall be entitled to a refund of thirty dollars (\$30.00). Any refund shall be paid to such individual only upon his making application therefor at such time and in such manner as may be prescribed by the state tax commission.

(c) A resident individual of the state of Idaho who is:

(i) blind, or

(ii) **a disabled American veteran** of any war engaged in by the United States, whose disability is recognized as a service connected disability of a degree of ten per cent (10%) or more, or who is in receipt of a pension for nonservice connected disabilities, in accordance with laws and regulations administered by the United States veterans administration, substantiated by a statement as to status signed by a responsible officer of the United States veterans administration, **or**

(iii) **over sixty-two (62) years of age**, and has been allowed none, or less than all, of the credit provided by subsection (a) or subsection (b) of this section, shall be entitled to a payment from the refund fund in an amount equal to fifteen dollars (\$15.00), or the balance of his unused credit, whichever is

less, upon making application therefor at such time and in such manner as the state tax commission may prescribe.

(d) Any part-year resident entitled to a credit under this section shall receive a proportionate credit, in the manner above provided, reflecting the part of the year in which he was domiciled in this state.

(e) No credit or refund may be claimed for an exemption which represents a person who has himself filed an Idaho income tax return claiming a deduction for his own personal exemption, and in no event shall more than one (1) taxpayer be allowed a credit or refund for the same exemption, or under more than one (1) subsection of this section.

(f) The refunds authorized by this section shall be paid from the state refund fund in the same manner as the refunds authorized by section 63-3067, Idaho Code.

(g) An application for any refund which is due and payable under the provisions of this section must be filed with the state tax commission within three (3) years of:

(i) the due date, including extensions, of the return required under section 63-3030, Idaho Code, if the applicant is required to file a return, or

(ii) the 15th day of April of the year following the year to which the application relates if the applicant is not required to file a return. (Emphasis added.)

Idaho tax code allows individuals who are 62 years of age or older to claim a grocery credit refund even if they were not required to file an Idaho individual income tax return. Secondly, Idaho law allow persons who are under age 62 to claim a \$15 grocery credit refund if they are recognized as disabled veterans. Both of the taxpayers are under 62 years of age, and only one of the taxpayers is a disabled veteran. Only one grocery credit of \$15 can be allowed because only one of the possible conditions detailed in Idaho Code § 63-3024A existed for year 2000.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted], dated March 8, 2002, that reduces the taxpayers' grocery credit refund for 2000 from \$45 to \$15 is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of taxpayers' right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]                      Receipt No. [Redacted]

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ADMINISTRATIVE ASSISTANT 1